IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

OP.No. 8094 of 2001(L)

PETITIONERS:
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1. LEELAMMA VARGHESE, AGED 35,
D/O. OUSEPH, KOCHUPARAMBIL VEETTIL,
VADAKKEYATTAM, CHANGAMKARY
EDATHUA, ALAPPUZHA DISTRICT.

2. MATHEW @ JOSEPH MATHEW, AGED 45,
S/O. OUSEPH, KIZHAKEPARAMBIL VEETTIL,
(KOCHUPARAMBIL VEETTIL),
PACHA, EDATHUA, ALAPPUZHA DISTRICT.

BY ADV. SRI.C.D.JOHNY
SRI.P.SHAIJAN JOSEPH

RESPONDENTS:
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1. DEPUTY TAHSILDAR (R.R.), KUTTANAD.

2. STATE OF KERALA REP.BY SECRETARY,
MINISTRY OF REVENUE DEPARTMENT,
TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.V.T.K.MOHANAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.8094/2001

ORDER ON CMP. NO.13094/2001 IN OP. NO.8094/2001

CLOSED

25.07.2007 **SD/- T.R.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTICE OF ATTACHMENT ISSUED BY THE 1ST RESPONDENT TO THE 1ST PETITIONER.

EXT.P2:- COPY OF THE NOTICE OF ATTACHMENT ISSUED BY THE 1ST RESPONDENT TO THE 2ND PETITIONER.

/TRUE COPY/

P.A. TO JUDGE

tss

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 8094 of 2001

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Dated this the 25th day of July, 2007

J U D G M E N T

This original petition is filed challenging Exts.P1 and P2 which are notices of demand under Section 7 of the Revenue Recovery Act. The case of the petitioner is that the above notices were issued to them pursuant to an order in M.C.No.64/1998 in C.C.No.826/1994 passed by the Chief Judicial Magistrate, Ernakulam. The petitioners were sureties for one Sunny Thomas, who was an accused in C.C.No.8126/1994 of Chief Judicial Magistrate Court, Ernakulam.

2. The case of the petitioners is that they were under the impression that the main case where Sunny Thomas was an accused was settled between the parties. It arose consequent on the dishonour of a cheque and the prosecution was lodged for an offence involving Section 138 of the Negotiable Instruments Act. The accused was enlarged on bail on executing bond for

Rs.40,000/- each with two solvent sureties. The petitioners have executed the bond before the Chief Judicial Magistrate, Ernakulam.

3. The further case of the petitioners is that they had no knowledge about the circumstances under which the revenue recovery proceedings have been initiated. It is also their case that they have not received any notice or information from the criminal court about the non appearance of the accused.

4. The order passed in M.C.No.64/1998 in C.C.No.826/1994 is not under challenge in this writ petition. Therefore, the liability if any of the petitioners arising under the said order cannot be gone into by this Court in these proceedings. In the counter affidavit filed on behalf of the first respondent it is averred that the two requisitions were received by the District Collector from the Chief Judicial Magistrate, Ernakulam, for realising the dues in question and consequential notices under Section 7 of the Revenue

Recovery Act were issued to the petitioners through the Village Officer, Edathua.

In view of the above state of affairs, the validity of Exts.P1 and P2 cannot be adjudicated in these proceedings. The accused to whom the petitioners stood as sureties is also not in the party array and the orders of the criminal court are also not under challenge here. Therefore, the remedy of the petitioners, if any, is to challenge the same in appropriate proceedings. Without prejudice to the said right of the petitioners, this original petition is dismissed.

T.R.RAMACHANDRAN NAIR,
Judge

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T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 8094 of 2001

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J U D G M E N T

25th July, 2007